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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,559	12/11/2003	Ted. F. Slupesky	BEA9-2003-0021-US1	8775

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EXAMINER

LY, CHEYNE D

ART UNIT	PAPER NUMBER
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2168

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/733,559

Applicant(s)

SLUPESKY ET AL.

Examiner

Cheyne D. Ly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 16, 2007 has been entered.
2. Applicants' arguments have been fully considered but they are not deemed to be persuasive. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.
3. Claims 1-20 are examined on the merits.

RESPONSE TO ARGUMENTS

4. The rejections of record in the Office Action, mailed November 15, 2006, have been withdrawn.
5. Applicant's arguments directed to withdrawn rejections are moot. The basis for the 35 U.S.C. 101 rejection is that the claimed invention does not result in a physical transformation or produce any useful, tangible, and concrete results.
6. In regard to the new prior art rejection, the Dickman et al. (US 5877765 A) reference has been combined with Lennon et al. to render the claimed invention obvious over the prior art.

CLAIM REJECTIONS - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
9. Claim 1, lines 9-10, recites "executing said function" for the intended use "to manage configuration" wherein the "executing..." does not result in a physical transformation or produce any useful, tangible, and concrete results. The intended use limitation of "to manage..." has been interpreted as "to have in mind, or plan" for the specified action. However, the action does not actually get executed beyond the planning stage. The same issue is present in claims 8 and 14.
10. It is noted that claim 8 is directed to a computer system, and claim 14 is directed to an article comprising a computer-readable and recordable data storage medium. However, the claimed invention does not result in a physical transformation or produce any useful, tangible, and concrete results. Therefore, no practical application is realized from the claimed invention.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
13. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lennon et al. (US 20020107973 A1) (Lennon hereafter) in view of Dickman et al. (US 5877765 A) (Dickman hereafter).

CLAIM INTERPRETATIONS

14. The instant specification exemplifies “managed object” as hardware devices which may include storage devices, servers, and routers (page 4, last paragraph). Lennon discloses the below cited method, computer system and article as directed to storage devices and servers (Figures 9-11). Therefore, the disclosure of Lennon has been interpreted as “managed object.” Further, the disclosure of the “get” (page 5, column 1, [0074]) command by Lennon has been interpreted as a function as exemplified by the instant specification (page 6, lines 1-16).

MOTIVATION TO COMBINE

15. Lennon describes a “preferred arrangement interprets the link by first using the identifier part of the URI to locate the metadata server on the network (page 10, [0117]). Dickman

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describes an improved ability to locate resources in a distributed environment, such as the Internet (URL) (column 1, lines 55-57). Therefore, one of ordinary skill in the art at the time of the invention would have been motivated by Dickman to improve ability to locate metadata resources in a distributed environment, such as the Internet (URL) as described by Lennon.

BASIS FOR PRIOR ART

16. In regard to claim 1, Lennon discloses a method of communicating with a managed object, comprising:

- a. Dynamically generating (page 4, column 2, [0073], especially the disclosure of “dynamically generating XML descriptions that conform to these schemas”) an interpretable format form a meta data description for a function of said object (claim 1);
- b. Communicating with said managed object with an operator input command, including a GET command request data from said managed object (page 5, column 1, [0074], especially, “a URI itself, and a query string which specifies details of the metadata server request. The request can be executed using a Hypertext Transfer Protocol (HTTP) "get" request over the Internet”), and an INVOKE command to create new data, wherein a single URL assigned to an attribute of said managed object is used for each of said operator commands (page 12, [0163], especially, “the metadata server 212 invokes a procedure to satisfy the request”);

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- c. Interpreting said operator input command (Abstract etc., and page 9, [0101]) according to said format (claim 92, and page 9, column 1, [0100], to page 10, column 1, line 7); and
 - d. Executing said function to manage configuration of said object in response to said interpretation of said operator input command (claim 115, and page 17, [0192]).
- 17. However, Lennon does not explicitly describe the limitation of “a SET command to modify existing data of said managed object.” Dickman describes the SET command and GET command (column 8, lines 12 and 20). Therefore, it would have been obvious to one of ordinary skill in the art to improve the improve ability to locate metadata resources in a distributed environment, such as the Internet (URL) as described by Lennon with the SET function of Dickman.
- 18. In regard to claim 2, Lennon in view of Dickman discloses translating a response received from said managed object into said interpretable format (page 4, column 2, [0073], and page 5, column 1, [0077]). Therefore, it would have been obvious to one of ordinary skill in the art to improve the improve ability to locate metadata resources in a distributed environment, such as the Internet (URL) as described by Lennon and Dickman.
- 19. In regard to claim 3, Lennon in view of Dickman discloses meta data description for a function of said object includes a uniform resource locator to said function (page 5, column 1, [0074] and [0078], and page 9, column 1, [0103]). Therefore, it would have been obvious to one of ordinary skill in the art to improve the improve ability to locate

metadata resources in a distributed environment, such as the Internet (URL) as described by Lennon and Dickman.

20. In regard to claim 4, Lennon in view of Dickman discloses the metadata describes one or more internal commands associated with said functions (page 5, column 1, [0074]). It is noted that the “get” command described by Lennon is consistent type of internal command exemplified by the instant specification on page 6, lines 1-16. Therefore, it would have been obvious to one of ordinary skill in the art to improve the improve ability to locate metadata resources in a distributed environment, such as the Internet (URL) as described by Lennon and Dickman.
21. In regard to claim 5, Lennon in view of Dickman discloses dynamically generating (page 5, column 1, [0075]) an interpretable format from a mete data description (claim 1) includes building a data structure to inform an operator of a require format for communication with said managed object (page 5, column 2, [0084], to page 8, column 1, [0099]). Therefore, it would have been obvious to one of ordinary skill in the art to improve the improve ability to locate metadata resources in a distributed environment, such as the Internet (URL) as described by Lennon and Dickman.
2. In regard to claim 6, Lennon in view of Dickman discloses communicating with said managed object in real-time (page 9, [0109]). Therefore, it would have been obvious to one of ordinary skill in the art to improve the improve ability to locate metadata resources in a distributed environment, such as the Internet (URL) as described by Lennon and Dickman.

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22. In regard to claim 7, Lennon in view of Dickman discloses the step of dynamically generating an interpretable format from a metadata description for a function of said object includes an interface such as a graphical user interface (Figures 1 and 2, especially item 101, "Media Browser"). Therefore, it would have been obvious to one of ordinary skill in the art to improve the ability to locate metadata resources in a distributed environment, such as the Internet (URL) as described by Lennon and Dickman.
23. In regard to claims 8-20, Lennon in view of Dickman discloses the above cited method being implemented in a computer system and article comprising a computer-readable signal-bearing medium (Figures 1 and 2). Therefore, it would have been obvious to one of ordinary skill in the art to improve the ability to locate metadata resources in a distributed environment, such as the Internet (URL) as described by Lennon and Dickman.

CONCLUSION

24. Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been

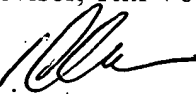
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corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

25. For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199. The USPTO's official fax number is 571-272-8300.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Dune Ly, whose telephone number is (571) 272-0716. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

27. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Vo, can be reached on (571) 272-3642.

C. Dune Ly 
Patent Examiner
3/13/07